



**Comptroller General  
of the United States**

Washington, D.C. 20548

---

# Decision

**Matter of:** Metfab Engineering, Inc.; Mart Corporation

**File:** B-265934; B-265934.2

**Date:** January 19, 1996

---

John T. Rego, for Metfab Engineering Inc.; and Michael Curth, and Gary Minkin, for The Mart Corporation, the protesters.

Lee Curtis, Esq., and Jerone C. Cecelic, Esq., Howrey & Simon, for Better Engineering Manufacturing, Inc., an interested party.

Timothy Lasko, Esq., Department of the Navy, for the agency.

Marie Penny Ahearn, Esq., David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

1. Protest that request for proposals (RFP) for brand name or equal commercial aircraft parts washers contains insufficient detail on required preproduction testing examinations to enable the protester to compete intelligently is denied where the examinations either are based on the salient characteristics set forth in the RFP or concern areas, such as accessibility, about which a commercial vendor should understand what would be required.

2. Protest alleging noncompliance of the awardee's brand name product with stated salient characteristics, which required modification of brand name product for compliance, is denied where record demonstrates that agency reasonably determined compliance based on the representation in the awardee's proposal.

---

## DECISION

Metfab Engineering, Inc. protests certain specifications and Mart Corporation protests the award of a contract to Better Engineering Manufacturing, Inc., under request for proposals (RFP) No. N68335-95-R-0185, issued by the Department of the Navy for commercial, off-the-shelf, brand name or equal, large aqueous parts washers, used in the degreasing of aircraft parts. Metfab argues that the specification provisions with respect to the required post-award, preproduction testing are vague so as to preclude competition on a common basis. Mart asserts that Better Engineering's proposed parts washer did not meet the stated salient characteristics.

We deny the protests.

## BACKGROUND

The RFP, specifying Better Engineering model F-4000-P or equal, required offerors to propose "commercial items," that is, "items regularly used in the course of normal business operations." See Defense Federal Acquisition Regulation Supplement (DFARS) § 252.211-7012(b)(1). Offerors were required to describe in their proposals compliance with the listed salient characteristics and to include descriptive literature establishing details of the products offered which were pertinent to significant elements such as design, performance characteristics, and operation. Proposals were to be evaluated on a pass/fail basis for compliance with the "performance specification."

The Navy received six offers. Award was made to Better Engineering as the lowest-priced technically acceptable offeror.

## METFAB'S PROTEST

Metfab argues that the solicitation provisions for contractor preproduction (post-award) testing provided insufficient detail for intelligent competition on an equal basis.

Generally, the RFP provided that the contractor is to submit a preproduction test plan after award, for review and approval by the government. Once the plan is approved, preproduction testing is to be conducted by the contractor on two units at its own expense; test results are to be submitted to the government for approval. The required preproduction testing includes operational tests "to evaluate safe operation of all controls, components, and safety devices" and "[f]it and placement of components, and equipment weight and dimensions"; "[s]pecial concern [is to be given to] any unforeseen operational anomalies affecting safe performance." The preproduction test required the following examinations: (1) completeness; (2) nameplates and identification; (3) alignment and tightness; (4) finish; (5) fit and placement of components; (6) ease of operations, switches, and controls; (7) equipment weight and dimensions; (8) accessibility of components and parts; (9) power cord; and (10) safety examinations/instructions.

Metfab complains that the solicitation did not include "specific and complete requirements and test parameters" for the preproduction test examinations, and that such detail was required to assure fair and equal competition.

Where a DOD agency intends to acquire a commercial item, it is obligated to describe the item in a way that identifies the agency's needs with sufficient detail and clarity so that all offerors have a common understanding of what is required under the contract in order that they can compete intelligently on a relatively equal

basis. Adventure Tech, Inc., B-253520, Sept. 29, 1993, 93-2 CPD ¶ 202, aff'd, Adventure Tech, Inc.—Recon. and Entitlement to Costs, B-253520.2; B-253520.3, Feb. 9, 1994, 94-1 CPD ¶ 105; see Automated Power Sys., Inc., B-256242, May 31, 1994, 94-1 CPD ¶ 329.

Metfab has not established that the solicitation failed to include adequate information for the preproduction examinations listed in the solicitation. While the actual testing approach was not specified, but instead was to be provided by the contractor in its test plan and approved by the government, the examinations clearly are to be based in the first instance on the salient characteristics set forth in the RFP. In general, these salient characteristics, which the protester has not challenged, were reasonably specific in nature. For example, with respect to equipment weight and dimensions, an area cited by the protester, the salient characteristics required a turntable of "1,500 pounds weight capacity" and overall dimensions "not to exceed 63 inches wide by 72 inches deep by 72 inches high." While other areas to be evaluated in the preproduction examinations—e.g., accessibility of components and parts—were not expressly addressed in the salient characteristics, we see no reason why commercial vendors would not understand what would be sufficient to meet the agency's requirements in these areas in terms of performance required and form, fit and function (e.g., that there be reasonable accessibility). See Adventure Tech, Inc., supra. The fact that the Navy received five proposals other than Metfab's, all offering different model machines, with no indication that the other offerors viewed the specification as uncertain or risky, supports the conclusion that the RFP contained sufficient information for offerors to intelligently compete on a common basis. See University Research Corp., B-228895, Dec. 29, 1987, 87-2 CPD ¶ 636.

#### MART'S PROTEST

Mart argues that Better Engineering's proposed modified brand name parts washer did not comply with the RFP's salient characteristics (1) requiring the capability to raise the water temperature to 200 degrees Fahrenheit (F) within 2 hours (the heat-up requirement) and (2) limiting the maximum amperage draw to 59 amperes (amps) with a 220-volt, three phase power source. Mart contends that Better Engineering's water heater will either fail to heat in the time required, or that if it heats as required, it will draw more than 59 amps of power. The protester asserts that the specifications were relaxed and that it could have reduced its price had it been afforded an opportunity to offer on the same relaxed specifications.

Although the RFP did not expressly state that it included specifications which required modification of the brand name product for compliance, there is no disagreement among the parties that this was the case here; Mart and Better Engineering both recognized that the 18 kilowatt (KW) heater of the brand name product was inadequate to meet the solicitation's heat-up requirement, and both

offered larger heaters.<sup>1</sup> Better Engineering's proposal described its heater as follows:

"Units to be equipped with 24 KW of electric heat (33 percent more than on a standard F-4000-P) to ensure temperature rise to 200 degrees F in two (2) hours. Our experience and the laws of physics have shown that less than 24 KW of heat in this tank size will not provide required heat-up performance." (Emphasis in original.)

In addition, Better Engineering responded to the 59-amp limitation by describing its proposed parts washer as "220 volt, 3 phase, 60 HZ with 59 amp draw at full load." In contrast, Mart proposed a "primary" heater of "15 KW (operates as required)" and a "secondary" heater of "7.5 KW (de-energized when pump runs)," operating at 200 volts, but did not mention the 59-amp requirement.

The Navy, which was familiar with Better Engineering's previous descriptive literature showing its parts washers operating at 240 volts, interpreted Better Engineering's proposal as Better Engineering states it intended—a 24 KW heater operating at 240 volts derated to 220 volts, which it determined will dissipate 20.17 KW of power, and which will therefore not draw more than 59 amps. The agency engineer concluded that Better Engineering's statement in its proposal that the maximum amperage draw would not be exceeded was achievable based on the engineer's knowledge of amperage limitation devices, including load shedding devices, which could be utilized to avoid exceeding the maximum allowable amperage (59) draw, and which it assumed Better Engineering was offering.

Mart argues that Better Engineering's proposal should have been determined noncompliant because (1) the proposal indicated that the offered parts washer would need to dissipate at least 24 KW of power—which would draw a higher amperage—to meet the heat-up requirement, and (2) "nowhere in Better Engineering's technical proposal . . . did they state that an 'amperage limiting device' was included" to derate the heater to 220 volts from 240 volts.<sup>2</sup>

---

<sup>1</sup>While the RFP did not specify the heating element size, and the agency did not perform actual calculations to determine the necessary heating element size, an agency engineer has explained that "[b]ased on previous experiences of other aqueous parts washers of similar size, the agency felt that the 18 KW heating element (standard on the basic Better Engineering F-4000 unit) would provide only marginal performance."

<sup>2</sup>In comments to a supplemental agency report, Mart also contends that the total amperage draw of Better Engineering's parts washer will in fact exceed the 59 amp (continued...)

Generally, the contracting agency is responsible for evaluating the data submitted by an offeror under a brand name or equal procurement and ascertaining if it provides sufficient information to determine whether the offeror's product meets the salient characteristics. Andromeda Corp., B-245345, Nov. 20, 1991, 91-2 CPD ¶ 485; VG Instruments, Inc., B-241484, Feb. 7, 1991, 91-1 CPD ¶ 137. We will not disturb an agency's determination absent a showing that it was unreasonable. Id.

The Navy reasonably determined that Better Engineering's proposal adequately showed compliance with the requirements in issue. Better Engineering expressly stated in its proposal that the brand name heater would be modified to "ensure temperature rise to 200 degrees F in two (2) hours," that is, to meet the heat-up requirement, and that there would be a "59 amp draw at full load" with a 220-volt power source. Mart has furnished no calculations establishing that the anticipated resulting 20.17 KW of power dissipation would not meet the heat-up requirement. Rather, Mart bases its argument that 20.17 KW of power dissipation will not suffice on Better Engineering's statement in its proposal that "experience and the laws of physics have shown that less than 24 KW of heat in this tank size will not provide required heat-up performance." (Emphasis in original.) While the protester assumes that Better Engineering's reference to "24 KW of heat" was a reference to the required power dissipation, rather than to the size of the required heating element, there was nothing in Better Engineering's proposal indicating that this was Better Engineering's intent. Moreover, Mart itself apparently intends to furnish a heater dissipating only 20.6 KW of power and did not explain in its proposal exactly why 20.6 KW would be sufficient for its washer to meet the heat-up requirement. It thus appears that both proposals were evaluated on the basis of their statements of compliance with the heat-up requirement,<sup>3</sup> and there is no basis for questioning the agency's determination of Better Engineering's compliance with this requirement. See Inframetrics, Inc., B-257400, Sept. 30, 1994, 94-2 CPD ¶ 138; Power Dynatec Corp., B-251501.3, Aug. 3, 1993, 93-2 CPD ¶ 73.

---

<sup>2</sup>(...continued)

limitation based on additional amperage resulting from a transformer for the system controls. This contention, raised more than 10 working days—in fact, approximately 2 months—after the protester's receipt of a copy of the awardee's proposal, when the basis of protest should have been known, is untimely and will not be considered. 4 C.F.R. § 21.2(a)(2) (1995).

<sup>3</sup> As another relevant example, although Mart states that "[its] proposal also includes electrical devices that keep the amperage draw . . . under the maximum 59 amps allowed," nowhere in its proposal did it specifically state that it was using an amperage limitation or load shedding device. In fact, Mart's proposal did not even mention the 59-amp limitation.

The failure of Better Engineering's proposal to describe the use of an amperage limitation or load shedding device to be used to assure compliance with the 59 amp limitation, also does not furnish a basis for questioning the Navy's determination of compliance. Although the solicitation required offerors to describe in their proposals compliance with the salient features and to include descriptive literature establishing pertinent details of the products offered, the solicitation did not require offerors to detail exactly how their offered equipment would perform in a compliant manner. Since there was a feasible means of meeting the requirement, we think the agency could reasonably assume that this means would be employed by Better Engineering. Moreover, as discussed above, since the agency accepted general statements of compliance with the salient characteristics from both offerors, Better Engineering's failure to provide more specifics with regard to its intent to use an amperage limiting or load shedding device was not a basis for rejecting its proposal. See Inframetrics, Inc., supra; Power Dynatec Corp., supra.

The protests are denied.

Comptroller General  
of the United States